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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,239	07/31/2003	Gregory W. Smiley	780139.00019	1736

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EXAMINER

DUNN, DAVID R

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/631,239	Applicant(s) SMILEY ET AL.	
	Examiner David Dunn	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006 and 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 3, 2006 has been entered.

Drawings

2. The drawings were received on March 3, 2006. These drawings are acceptable.

Terminal Disclaimer

3. The terminal disclaimer filed on March 3, 2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent granted on Application Number 10/631,237 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haack et al. (6,564,906) in view of Gilliland et al. (5,595,259).

Haack et al. disclose a material handling vehicle, comprising: an operator compartment (211; see Figure 4); a steering mechanism (223) accessible to an operator standing in both of a fore vehicle direction and an aft direction; a fore operator control handle (225) for selecting a direction and a speed of travel (see description of similar controller- column 5, lines 19-24) being mounted at a first end of the operator compartment and configured for operation in a fore vehicle direction; an aft operator control handle (225') for selecting a direction and a speed of travel; and a traction system (see column 4, lines 52-55) controlled by the fore and aft operator control handles to drive the lift truck whereby the steering mechanism is mounted to be accessible to an operator facing the first end of the compartment (as in Figure 4) and controlling the fore operator control handle and to an operator facing the second end of the compartment and controlling the aft operator control handle (the operator of Figure 4 can keep the left hand on handle 223 and pivot the right hand to control 225').

Haack et al. discloses an operator control (247 & 249) accessible to an operator standing in both of a fore vehicle direction and a aft direction. Haack et al. discloses a floor switch (249). Regarding claim 7, the aft operator control is mounted at an angle to the side of the compartment (any orientation would be "at an angle") to be perpendicular of the arm of the operator when operating the control (this limitation would depend on the position of the operator). The operator control includes a steering wheel (223 and 223').

Haack et al. does not specifically show a twist grip handle.

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Gilliland et al. teaches a fork lift truck with a twist grip handle (90). The grip handle has a smooth outer grip (smooth is a relative term; however as seen in Figure 5, the grip is smooth from one end to the other). The grip has recessed grooves (see Figure 6). The grip is a plastic (see column 4, lines 25-27); while urethane can be considered to be a thermoplastic, if it is found that urethane is not a thermoplastic, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the grip to use a thermoplastic material as the selection of a known material based on its suitability of use involves only routine skill in the art. Gilliland et al. also teaches a horn switch (86) on the handle control.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Haack et al. with the teachings of Gilliland et al. to use a twist grip handle in order to provide a simple control mechanism for the vehicle.

Regarding claim 10, while Haack et al. does not disclose the exact height of the control handle, it would have been obvious to one of ordinary skill in the art at the time the invention was made to construct the handle at substantially thirty eight inches from the floor in order to provide a comfortable height for the user.

Regarding claim 12, as the grip handle is rotational in a first direction for a motion in a first direction, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the second handle be rotational in a second direction for a motion in a second direction each grip would be rotated the same direction depending on the direction the occupant was facing.

Regarding claim 19, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the handle angle at any comfortable angle, such as seventy

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degrees, as the change of degree involves only routine skill in the art. In re Aller et al., 105 USPQ 233.

Response to Arguments

6. Applicant's arguments filed March 3, 2006 have been fully considered but they are not persuasive. On page 9, applicant argues that the operator selects between multiple steering mechanism to face the front and rear directions. In response, it is noted that Haack et al. has multiple control modules which can provide a variety of positions. From Figure 4, it can be seen that the operator can keep the left hand on handle 223 and pivot the right hand to control 225', thereby using the same steering control 223 while facing either direction. Applicant has not differentiated structure in the claims to be different from that of the combination described above. As the claims depend on the position of the user, Haack et al. has the ability to be used as claimed.

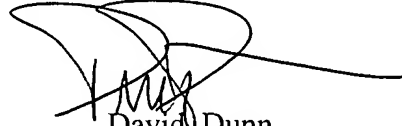
Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Dunn whose telephone number is 571-272-6670. The examiner can normally be reached on Mon-Fri, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'David Dunn', with a long horizontal flourish extending to the right.

David Dunn
Primary Examiner
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